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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,046	03/29/2004	Lawrence J. Koncelik JR.		1439

7590 01/26/2005

Mr. Walter J. Tencza, Jr.  
Suite 3  
10 Station Place  
Metuchen, NJ 08840

EXAMINER
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PASSANITI, SEBASTIANO

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/812,046

Applicant(s)

KONCELIK, LAWRENCE J.

Examiner

Sebastiano Passaniti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on see detailed Office action.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 2-13, 16 and 18-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 14, 15 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 03/29/2004
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

This Office action is responsive to communication received 01/05/2005 –  
Additional response to restriction requirement.

Claims 1-25 remain pending.

Applicant's election without traverse of Species I (FIGS. 1-4) (Claims 1, 14, 15 and 17) in the reply filed on 01/05/2005 is acknowledged.

Claims 2-13, 16 and 18-25 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 01/05/2005.

Following is an action on the MERITS:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by a piece of common adhesive tape approximately 6 inches in length and ½ inch in width.

As to claim 1, note that the language in the preamble, "for attachment to a golf club

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shaft for use as an aid to improve a golf swing" is functional in nature. A simple piece of adhesive tape (i.e., duct tape, painter's tape, Scotch (Brand) tape) adhered by one or both ends to the shaft of a golf club anywhere along the length of the shaft with the middle portion of the tape suspended away from the shaft meets the claimed limitations.

Claims 1, 14, 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Honda. As to claim 1, note that the language in the preamble, "for attachment to a golf club shaft for use as an aid to improve a golf swing" is functional in nature. Note Figure 3 and fletching (18), wherein a piece of adhesive (32) helps to adhere the fletching to the shaft portion of an arrow. The fletching clearly is capable of being selectively attached or detached from a golf club shaft. As to claim 14, the fletching is clearly less than fifty square inches in size, when one considers the size of the arrow to which it is attached. As to claims 14 and 15, note double-sided tape (32). As to claim 17, see col. 2, lines 44-52, wherein it is recognized that the fletchings (18) are made of polyester material and attached to the shaft of an arrow via double-sided tape.

Claims 1, 14, 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Fisher (of record). As to claim 1, note that the language in the preamble, "for attachment to a golf club shaft for use as an aid to improve a golf swing" is functional in nature. Note Figures 2 and 3 and the language in col. 2, lines 38-64. As to claim 14, the pennant is clearly less than fifty square inches in size, when viewing the arrangement of the pennant as it is attached to the mast portion of a vehicle. Note that the pennant is fabricated of flexible material (as required by claim 1), is attached via

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adhesive (as required by claim 15) and is made of polyester or MYLAR material (as required by claim 17).

Claims 1 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bartscherer (of record). Reference is made to Figures 1, 3A and 7 showing device (10) formed from a flexible, planar sheet of material and attached on a golf club shaft.

All references cited during prosecution of parent application serial nos. 10/422,511 and 09/867,215 are deemed pertinent to this instant application and are incorporated herein by reference. Moreover, note the following additional patents: Lay shows a vane structure of interest. Munger shows a vane structure, of interest. Gormley shows a tail attached to a ball, of interest. Note the planar ornament in Velte. Rudell ('981) shows a streamer, of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sebastiano Passaniti whose telephone number is 571-272-4413. The examiner can normally be reached on Mon-Fri (6:30-3:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sebastiano Passaniti  
Primary Examiner  
Art Unit 3711

S.Passaniti/sp  
January 24, 2005